

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE WESTERN DISTRICT OF WASHINGTON

FARMANULLAH KHAN,

Petitioner,

v.

TERESA ANN BIRCHFIELD KHAN,

Respondent,

Case NO. 3:22-cv-05866-RJB

**PETITION FOR THE RETURN OF  
CHILDREN UNDER THE HAGUE  
CONVENTION ON THE CIVIL  
ASPECTS OF INTERNATIONAL  
CHILD ABDUCTION**

**I. PARTIES TO THIS COMPLAINT**

**A. Petitioner**

Name: Farmanullah KHAN

Street Address: c/o Stave Law Office, PLLC, 14900 Interurban Avenue South, Suite 271

City and County: Tukwila, King County

State and Zip Code: Washington State 98168

Telephone Number: (253) 941-3484

Email: yukiko.stave@stavelaw.com

1 B. Respondent

2 Name: Teresa Ann Birchfield KHAN

3 Street Address: 40606 NE 193<sup>rd</sup> Court

4 City and County: Amboy, Clark County

5 State and Zip Code: Washington State 98601

6 Telephone Number: (360) 702-6782

7  
8 C. Involved Minors

9 Initial of Name (First, Middle, Last): M.F.K.

10 Year of Birth: 2012

11 Street Address: 40606 NE 193<sup>rd</sup> Court

12 City and County: Amboy, Clark County

13 State and Zip Code: Washington State 98601

14 Telephone Number: (360) 702-6782

15  
16 Initial of Name (First, Middle, Last): I.S.K.

17 Year of Birth: 2014

18 Street Address: 40606 NE 193<sup>rd</sup> Court

19 City and County: Amboy, Clark County

20 State and Zip Code: Washington State 98601

21 Telephone Number: (360) 702-6782

22  
23 Initial of Name (First, Middle, Last): Y.G.K.

24 Year of Birth: 2016

25 Street Address: 40606 NE 193<sup>rd</sup> Court

26 City and County: Amboy, Clark County

27 State and Zip Code: Washington State 98601

28 Telephone Number: (360) 702-6782

1 **II. PREVIOUS LAWSUITS**

2 There was a custody dispute between the parties with respect to the parties' three children in a  
3 Pakistan court.

4  
5 **III. BASIS FOR JURISDICTION**

6 A. This case involves a federal question.

7 B. 22 U.S.C. § 9003<sup>1</sup> - § 9004<sup>2</sup> are at issue in this case.

8  
9 **IV. STATEMENT OF CLAIM**

10 1. Petitioner Farmanullah KHAN is a legal father of the three children listed in this petition.

11 2. Petitioner is a national of Pakistan and lives in Pakistan.

12 3. Respondent Teresa Ann Birchfield KHAN is a legal mother of the three children listed in this  
13 petition.

---

1 "Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangement for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction of such action and which is authorized to exercise its jurisdiction in the place where the child is located at the time the petition is filed." 22 U.S.C. § 9003(b).

"A petitioner in an action brought under subsection (b) shall establish by a preponderance of evidence - (A) in the case of the action for the return of a child, that the child has been wrongfully removed or retained within the meaning of the Convention; and, (B) in the case of an action for arrangements for organizing or securing the effective exercise of right of access, that the petitioner has such rights." Id. § 9003(e)(1).

2 "In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 9003(b) of this title may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition." Id. § 9004(a).

1 4. Respondent is an American citizen, lived in Pakistan before and now is believed to live in  
2 Amboy, Washington with the three children.

3 5. The parties' three children listed in this petition habitually resided in Pakistan until early  
4 September 2021.

5 6. When the three children and both of the parties still lived in Pakistan, Petitioner filed a legal  
6 action against Respondent and others asking a family court in Pakistan to grant Petitioner  
7 custody of the three children.

8 7. The Pakistan court entered on August 27<sup>th</sup>, 2021 a temporary order restraining Respondent  
9 from removing the three children from the jurisdiction of the Pakistan court.

10 8. However, in early September 2021, Respondent removed the three children to the United  
11 States.

12 9. There has been no order to restrict Petitioner's parental right as a father to the three children  
13 listed in this petition.

14 10. Respondent has not returned any of the three children to Petitioner in Pakistan.

15 11. At the time of the removal in early September 2021, the temporary restraining order entered  
16 against Respondent by the Pakistan court on August 27<sup>th</sup>, 2021 was in effect.

17 12. In addition, Petitioner has never consented in such removal or retention.

18 13. Further, Petitioner has never subsequently acquiesced in such removal or retention.

19 14. Respondent wrongfully removed from Pakistan the parties' three children and still likely  
20 retains them in Amboy, Washington, the United States.

1 15. In March 2022, Petitioner filed with Central Authority of Pakistan an application for the  
2 return of the three children under the Hague Convention on the Civil Aspects of International  
3 Child Abduction 1980.

4 16. Pakistan has been a Contracting State to the Hague Convention on the Civil Aspects of  
5 International Child Abduction, 1980.

6 17. Pursuant to 22 U.S.C. § 9004, Petitioner is entitled to a temporary order prohibiting  
7 Respondent from removing the three children from the jurisdiction of this Court, visitation to  
8 the three children and decision-making jointly with Respondent in the three children's  
9 education, religion and non-emergency health matters while this petition is pending.

10 18. Pursuant to 22 U.S.C. § 9003, Petitioner is entitled to the full return of the three children to  
11 him in Pakistan upon the full hearing on the merit of this petition.

12  
13 **V. RELIEF**

14 Therefore, Petitioner requests this Court for the following relief:

- 15 1. An immediate temporary restraining order prohibiting the removal of any of the three  
16 children listed in this petition from the jurisdiction of this Court while this petition is pending,  
17 2. An immediate temporary order granting Petitioner to visit in-person, by phone and virtually  
18 to all the three children listed in this petition while this petition is pending,  
19 3. An immediate temporary order enabling Petitioner to participate in decision-making jointly  
20 with Respondent regarding all the three children's education, religion and non-emergency  
21 health matters while this petition is pending,

4. A final order in Petitioner's favor that all the three children are returned to Petitioner in Pakistan,

5. Award Petitioner reasonable attorney fees and costs, and

6. Grant any other relief court deems as appropriate.

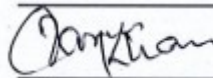
## VI. CERTIFICATION AND CLOSING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this petition: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the petition otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: November 8<sup>th</sup>, 2022

Signature of Petitioner



Printed Name of Petitioner Farmanullah KHAN

Assisted by: Yukiko Stave, Attorney at Law, WSBA#44674